

REGULATION 8A

ENFORCEMENT OF SECURITY INTERESTS

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8A.010 Definitions. As used in this regulation:

1. "Chairman" means the chairman of the state gaming control board or his designee.
2. "Enforce a security interest" means the transfer of possession ownership or title pursuant to a security interest.
3. "Operating license" means the gaming license issued to a person for the conduct of gaming. The term does not include licenses issued to officers, directors, holders of securities or other ownership interest, key employees, or others who have been licensed due to their relationship to or involvement with the gaming operation.
4. "Personal property gaming collateral" means property subject to a security interest that is composed of:
 - (a) A security issued by a corporation which is a holder of a gaming license in this state;
 - (b) A security issued by a holding company that is not a publicly traded corporation;
 - (c) A security issued by a holding company that is a publicly traded corporation, if the enforcement of the security interest will result in the creditor acquiring control as set forth in Regulation 16; or
 - (d) A security issued by a partnership which is a holder of a gaming license in this state.
5. "Secured party" means a person who is a lender, seller, or other person in whose favor there is a security interest or judgment.
6. "Security" means security as that term is defined in Regulations 15 and 15A.
7. "Security agreement" means an agreement that creates or provides for a security interest.
8. "Security interest" means an interest in property that secures the payment or performance of an obligation or a judgment.
(Adopted: 1/91. Amended: 10/91; 5/92.)

8A.020 Approvals required; applicability; scope of approval.

1. A person may not enforce a security interest in personal property gaming collateral except as provided by this regulation. The purported enforcement of such security interest without the secured party having complied with the requirements of this regulation is void.
2. The provisions of this regulation do not apply to the enforcement of a security interest in real property.
3. Notwithstanding any other provision of this regulation, approval is not required under this regulation to enforce a security interest in a security issued by a holding company, or by a corporation, general partnership, or limited partnership licensee, if the gaming operation has ceased and the operating license has been surrendered to the board prior to the enforcement of such security interest.
4. The granting of an approval pursuant to this regulation does not constitute a determination by the board or commission as to the validity or enforceability of the security interest.
5. The granting of an approval pursuant to this regulation does not constitute licensing, registration, or finding of suitability of the secured party, nor approval for further sale, transfer, or other disposition of the gaming collateral subsequent to the enforcement of the security interest.
(Adopted: 1/91. Amended: 10/91.)

8A.030 Application for approval to enforce security interest; investigation; recommendation of the board.

1. Except as otherwise specifically provided herein, a secured party shall apply for approval to enforce a security interest in personal property gaming collateral using such forms as the chairman may prescribe. The application shall include a complete schedule and description of the gaming collateral that is the subject of the security interest, copies of the security agreement and documents evidencing the obligation secured, a statement by the secured party identifying the act of default by the debtor that is the basis for seeking to enforce the security interest, including a copy of any notice of default sent to the debtor, and any other information requested by the board or commission.

2. The board shall investigate the facts and circumstances related to the application for approval to enforce a security interest. The investigation by the board may include:

- (a) A review of all pertinent documents;
- (b) An analysis of the impact upon the debtor of approving the enforcement of the security interest, including an evaluation of the effect of enforcement of the security interest upon the continued operation of the licensed gaming establishment;
- (c) A review of the transaction to determine whether the security interest was given in violation of Regulation 8.050, or in an attempt to evade the requirements of the Nevada Revised Statutes and regulations adopted by the Nevada gaming commission regarding the sale, assignment, transfer or other disposition of an interest in a gaming operation or in the type of property subject to this regulation; and
- (d) Any other data or information the board deems relevant to the application.

3. Where this regulation requires the affirmative approval of the commission prior to the enforcement of the security interest, the board shall submit a recommendation to the commission after the board completes its investigation.

(Adopted: 1/91. Amended: 5/92.)

8A.040 Enforcement of a security interest in personal property gaming collateral.

1. The enforcement of a security interest in personal property gaming collateral requires the affirmative approval of the commission. The commission shall not approve the enforcement of such security interest if such enforcement will result in any person becoming subject to mandatory licensing, registration, or finding of suitability, unless all persons have been licensed, registered, or found suitable by the commission, as applicable. The commission may grant a temporary or permanent waiver of the requirement of prior licensing, registration, or finding of suitability, or may grant delayed licensing, registration, or finding of suitability, upon written request by the secured party and recommendation of the board, if the commission makes a written finding that such waiver or delayed licensing, registration, or finding of suitability is consistent with state policy set forth in the Act.

2. Where an operating license is surrendered pursuant to NRS 463B.080(1)(d), the commission may, upon its own initiative or upon a request by the secured party, petition a district court for the appointment of a supervisor pursuant to NRS 463B and Regulation 17 to ensure the continuation of the gaming operation upon lapse of the license.

3. The chairman may permit the licensee or holding company to register or record the securities in its books or records in the name of the secured party pursuant to Regulation 8.040. The chairman may grant such permission only if the secured party has filed an application for approval to enforce a security interest in such securities. Such permission shall be conditioned upon and require that the secured party not exercise any voting rights or other control over the licensee or holding company, and that all dividends payable or other beneficial interest in the securities be held in escrow, pending final action on the application to enforce the security interest.

(Adopted: 1/91. Amended: 10/91; 12/91; 5/92.)

End – Regulation 8A